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HOUSE OF REPRESENTATIVES

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Part 2

HOUSE CONCURRENT RESOLUTION 337—CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1987

MAY 13, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PEPPER, from the Committee on Rules, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany House Concurrent Resolution 337]

The Committee on Rules, to whom was referred House Concurrent Resolution 337, having considered the same, report favorably thereon without amendment and recommend that the concurrent resolution do pass.

I. INTRODUCTION

The Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177, amends section 301(c) of the Congressional Budget Act of 1974 to require the referral of budget resolutions to the House Rules Committee under certain circumstances. Section 301(c) now states that a budget resolution reported by the House Budget Committee must be referred to the House Rules Committee for not to exceed five days if the resolution includes a provision having the effect of changing any rule of the House of Representatives. The Rules Committee is empowered to report the budget resolution with amendments. The rules and practices of the House of Representatives vests in the Committee on Rules jurisdiction over all matters, including budget enforcement procedures, affecting the rules of the House.

The automatic referral to the Rules Committee is intended to discourage changing budget procedures each year during consideration of a budget resolution. The annual budget resolution was too

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often used as a vehicle for such changes. As soon as Members adjusted to one set of requirements and constraints, a new set would be put into place. Committees found they were unable to participate in the formulation of new rules affecting their legislative efforts. Confusion and dissatisfaction were the inevitable result.

The Committee is pleased to find only one provision directly affecting budget enforcement included in this year's budget resolution, House Concurrent Resolution 337. Section 4 reserves $3 billion in FY 1987 budget authority from the committee allocations until Congress receives certain reports. This provision affects the operation of section 302 of the Congressional Budget Act of 1974 and the enforcement of points of order made pursuant to that section. The Committee commends the Budget Committee for its restraint in proposing procedural changes and for its cooperation in our review of these matters.

II. ANALYSIS OF PROCEDURAL MATTERS INCLUDED IN THE CONCURRENT RESOLUTION ON THE BUDGET

Reservation From Committee Allocations

Section 4 of House Concurrent Resolution 337 reserves $3 billion in FY 1987 budget authority from the allocation made, pursuant to section 302(a) of the Congressional Budget Act of 1974, to the Appropriations Committee. The $3 billion is already included in the total for new budget authority and in Function 050 (National Defense) of the functional allocations. The Budget Committees are directed to allocate the additional $3 billion only after the Congress receives certain reports accounting for prior-year defense appropriations in excess of the amounts needed to cover inflation. The section directs the Secretary of Defense to transmit such a report to the Congress and to the General Accounting Office. The General Accounting Office is directed to submit its findings within fourteen days of receipt of the Defense Secretary's report.

The reservation of budget authority contemplated in this budget resolution is an acceptable use of the technique because the $3 billion is already provided in the spending totals and the functional divisions of those totals. The Rules Committee would not favor extensive use of reservations. Nor would the Committee favor a "reserve fund" that distorts the level of total deficit, total spending, or the functional division of total spending. The debate on a budget resolution should be focused on broad macroeconomic issues and questions of the Nation's priorities. Reserving amounts from budget totals or functional divisions would confuse that debate.

Miscellaneous Provisions

The Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177, made changes in the congressional budget process that were recommended by the House Rules Committee through its Task Force on the Budget Process. House Concurrent Resolution 337 includes reconciliation instructions, binding credit authority figures, levels of spending from previously off-budget entities, and other miscellaneous matters pursuant to those changes.

House Concurrent Resolution 337 also calls on the President to establish a separate deficit reduction account in the Treasury for

specified amounts of revenue increases in each of the next three fiscal years. The resolution directs the Committees on Armed Services to report legislation concerning the accounting system for inflation costs. The resolution states that funding for a shuttle orbiter replacement and for the extension of the general revenue sharing program would be appropriate if the relevant authorizations are enacted. The latter provisions do no waive points of order or otherwise directly affect budget enforcement procedures. Finally, the resolution includes sense of Congress language concerning the Strategic Petroleum Reserve, funding for the Cooperative Extension Service, and the use of foreign aid funds to finance foreign agricultural commodities produced for export use.

III. CONSIDERATION OF OTHER PROCEDURAL CHANGES: EXTRANEOUS MATTERS IN RECONCILIATION BILLS

The Committee considered an amendment offered by Representative Lott of Mississippi. Representative Lott's amendment would have prohibited, for the remainder of the 99th Congress, consideration of provisions in, or amendments to, a reconciliation bill if the provisions or amendments are unrelated to achieving the purposes of reconciliation directives. Representative Lott eventually withdrew his amendment but the Committee believes it is important to explain its views on the matter.

The Rules Committee recognizes the problem that the Lott amendment attempts to solve. The Committee is particularly troubled by the inclusion of new program authorizations, provisions causing jurisdictional disputes, and other extraneous matter in reconciliation bills. A reconciliation bill is one of our sharpest weapons in the battle against excessive deficits; it should not be dulled by unrelated and controversial additions.

The Committee on Rules, however, is troubled by the imprecise task of determining what is related to the purposes of reconciliation directives. The amendment allows that a provision "shall be considered related to achieving the purposes of directives" if it is estimated by the House Budget Committee, in consultation with the Congressional Budget Office, to reduce spending or raise revenue. Provisions that are not estimated to reduce the deficit may still be related to the purposes of reconciliation directives even under the Lott amendment. Reconciled committees sometimes attach programmatic changes to their legislative recommendations in order to insure that the savings provisions do not change the programs in unacceptable ways. The amendment does not tell us whether these programmatic changes are related to the purposes of the reconciliation directives.

The reconciliation instructions under considerations, for example, call for savings in the medicare program. The Budget Committee notes its intention that "none of the savings . . . shall come from provisions that increase costs to beneficiaries." Suppose the reconciliation bill includes two separate provisions: one provision freezes amounts paid to medicare providers; the other provision insures that the costs to beneficiaries are not increased. The second provision saves no money. Would it be extraneous? Would the pro-

vision have been extraneous if the Budget Committee had not expressed its intention?

There are, no doubt, clear examples of extraneous provisions. Generally speaking, reconciliation should not be used as a vehicle for authorizing new programs or for expanding already existing programs. In the Committee's view, however, the amendment would require a subjective and political determination to find that a provision is extraneous. Subjective reasoning of this nature is not the proper basis for a point of order.

The amendment is not necessary to solve the problem of extraneous matter in reconciliation bills. The Rules Committee already has the authority to prevent abuses by making in order amendments or motions to strike. The Congressional Budget Act of 1974 empowers the Budget Committee to assemble the legislative recommendations of committees and to report a reconciliation bill. It does not grant authority to the Budget Committee to make substantive revisions. The Rules Committee will, of course, continue to give due consideration to the requests of the Budget Committee to offer amendments to reconciliation bills. The Committee will also continue to consider other amendments to change or delete extraneous provisions. More to the point, the Rules Committee takes this opportunity to announce that it will closely monitor the reconciliation process this year. The Committee will not look favorably on extraneous provisions or amendments.

IV. COMMITTEE CONSIDERATION

The Committee on Rules met on May 13, 1986 to consider House Concurrent Resolution 337. The Committee heard testimony from Representative Gray, Chairman of the Budget Committee, on procedural matters in the budget resolution. By a voice vote, a quorum being present, the Committee ordered reported House Concurrent Resolution 337.

V. COMMITTEE COST ESTIMATE

Clause 2(l)(3)(B) of Rule XI requires each committee report on a measure providing new budget authority or increased tax expenditures to contain any statement required by section 308(a) of the Congressional Budget Act of 1974. This measure neither provides new budget authority nor increases tax expenditures.

Clause 7(a) of Rule XIII requires committees to include their own cost estimates in certain committee reports. Clause 7(d) of Rule XIII exempts the Committee on Rules; nonetheless, the Committee generally examines the costs that would be incurred in carrying out the legislation it considers. The Committee notes that this concurrent resolution has no direct costs to the federal government.

VI. INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(l)(4) of Rule XI, the Committee on Rules finds that procedural elements of House Concurrent Resolution 337 may improve accounting for inflationary costs in the Defense Department.

VII. COMMITTEE OVERSIGHT FINDINGS

Clause 2(l)(3)(A) of Rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of Rule X. The Committee has made no special oversight findings in connection with the resolution. The Committee would refer to its statement under the sections of this report titled "Introduction" and "Analysis."

VIII. OVERSIGHT FINDINGS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

The Committee on Rules has not received findings or recommendations offered, pursuant to clause 4(c)(2) of Rule X, by the Committee on Government Operations. Therefore, no summary pursuant to clause 2(l)(3)(d) of Rule XI is included.

IX. CHANGES IN EXISTING LAW MADE BY HOUSE CONCURRENT RESOLUTION 337

Clause 3 of Rule XIII requires the report of each committee on a bill or joint resolution to contain a comparative print relating to the measure. House Concurrent Resolution 337 does not change existing law.

X. CHANGES IN THE RULES OF THE HOUSE MADE BY HOUSE CONCURRENT RESOLUTION 337

Clause 4(d) of Rule XI requires reports from the Committee on Rules, on resolutions amending the Rules of the House of Representatives, to contain a comparative print indicating changes in the existing rules. Although House Concurrent Resolution 337 would affect enforcement of procedures in the Congressional Budget Act of 1974, it does not directly amend the rules.

XI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Clause 2(l)(3)(C) of Rule XI, requires the Committee to include a cost estimate prepared, pursuant to section 403 of the Congressional Budget Act of 1974, by the Director of the Congressional Budget Office.

Section 403 requires the Director, "to the extent practicable", to prepared and submit an estimate and comparison on each bill or resolution of a public character. No CBO cost estimate was prepared.

XII. MINORITY VIEWS

Reconciliation is the locomotive that powers the deficit reduction train through the Congress. Over the years, most committees have followed their reconciliation instructions by hitching cars to the train containing the directed spending cuts or revenue increases.

But in recent years, the practice has been growing of piling excess and extraneous baggage onto the reconciliation train—both spending add-ons and unrelated authorization provisions. Obviously the temptation is great to hitch a free ride on a train that is bound to make it through the White House station without being derailed.

While such a strategy may be politically appealing, it is bad budgetary and institutional policy. It is not only contrary to the purposes of reconciliation, but, as was so vividly demonstrated this past year, can actually be dilatory, deleterious, and detrimental to the chances of enacting a reconciliation bill. The more extraneous baggage that is thrown onto the train, the longer it takes to get through. And when it does finally get through, its essential cargo is worth less than before: savings are lost.

Both the Budget and Rules Committees have taken notice of this growing abuse in their reports on H. Con. Res. 337, and have warned committees against continuing to attach extraneous provisions to reconciliation bills.

Representative Latta in the Budget Committee and Representative Lott in the Rules Committee were prepared to offer amendments providing points of order against provisions in reconciliation bills or amendments which were unrelated to a committee's instructions.

In the Budget Committee Mr. Latta withdrew his amendment when assurances were given that strong report language would be included on the matter and that the committee would defer to the Rules Committee for a decision on the matter. In the latter instance Mr. Lott withdrew his amendment when assurance was given that the Rules Committee would not look favorably on such blatant abuses of the reconciliation process in the future, and that hearings would be held in the near future on possible procedural remedies for the problem.

For now we accept these assurances that a tough new stance will be taken by Budget and Rules and we hope this alone will be sufficient to persuade committees to refrain from including extraneous matters in the next reconciliation bill.

However, we continue to feel that a workable point of order is the only long-term insurance against such abuses. Simply making in order motions to strike such offensive provisions in the rule on a reconciliation bill puts an inordinate burden on the proponent of the amendment, since the extraneous authorizations are often politically popular programs that are difficult to vote against, even

though they may be imperfect and no opportunity is allowed to perfect them by amendment.

If there is no permanent rule in place when the next reconciliation bill comes before the Rules Committee, it will be our intention to move that the offending provisions be automatically stricken with the adoption of the rule, just as we recently did with two provisions on the urgent supplemental (H.R. 4515). We have good reason to believe there will be bipartisan support for this approach in the Rules Committee.

In the interim, we urge our colleagues to study the Latta/Lott procedure which has been proposed and which is attached to these views, since this will be one alternative that will be given serious consideration in the upcoming hearings to be held by the Rules Committee.

JAMES H. QUILLEN.
DELBERT L. LATTA.
TRENT LOTT.
GENE TAYLOR.

HOUSE CONCURRENT RESOLUTION 337

(Concurrent Resolution on the Budget for Fiscal Year 1987)

An Amendment offered by Mr. Lott

In Sec. 2., "Reconciliation", add the following new subsection:

"HOUSE PROCEDURES

"(v) The following rules shall apply in the House of Representatives with respect to any reconciliation bill reported or considered pursuant to this resolution:

"(1) No provision shall be reported in the House in any reconciliation bill pursuant to this resolution or be in order as an amendment thereto in the House Committee of the Whole, which, is not related to achieving the purposes of the directives to House committees contained in this resolution.

"(2) Nothing in this subsection shall be construed to prevent the consideration of any provision in a reconciliation bill, or any amendment thereto, which achieves savings greater than those directed of a committee and which conforms to paragraph (3) of this subsection, or to prevent the consideration of motions to strike made in order by the Committee on Rules to achieve the purposes of the directives.

"(3) For the purposes of this subsection, a provision shall be considered related to achieving the purposes of directives contained in this resolution on the budget if it is estimated by the House Committee on the Budget, in consultation with the Congressional Budget Office, to effectuate or implement a reduction in budget authority or in new spending or contract authority described in sections 3(a)(10) or 401(c)(2)(C) of the Congressional Budget Act, respectively, or to raise revenues, or any combination of the preceding, and, in the case of an amendment, if it is within (in whole or in part) the jurisdiction of any committee instructed in this resolution.

"(4) The point or order established by this subsection shall not apply to Senate amendments or to conference reports.".

Explanation.—This amendment would establish points of order against provisions in reconciliation bills, and against amendments thereto, which are unrelated to a committee reconciliation directives. A provision would be considered related to a committee's directives if the Committee on Budget, in consultation with CBO, determines it would effectuate or implement a reduction in budget authority, new entitlement authority or contract authority or raise revenues. The Budget Committee's determination would be the basis for the Chair's decision on a point of order, just as the Budget

Chairman's scorekeeping report now serves that purpose on points of order relating to budget spending ceilings and revenue floors. It should be noted that the Senate adopted a similar point of order as part of the Omnibus Reconciliation Act (P.L. 99-272, § 2001).

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